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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,603	11/25/2003	Bernard O. Geaghan	59080US002	5621

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EXAMINER

NGUYEN, JIMMY H

ART UNIT	PAPER NUMBER
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2629

NOTIFICATION DATE	DELIVERY MODE
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12/03/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
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Office Action Summary

Application No.

10/721,603

Applicant(s)

GEAGHAN ET AL.

Examiner

Jimmy H. Nguyen

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicants' arguments, see the Remarks/Arguments section of the Amendment-After-Final, filed 1/13/2007, with respect to claims 1-18, have been fully considered and are persuasive. All the rejections of the Office Action dated 9/10/2007 have been withdrawn.
2. Since this application is eligible for the transitional procedure of 37 CFR 1.129(a), and the fee set forth in 37 CFR 1.17(r) has been timely paid, the finality of the previous Office action is hereby withdrawn pursuant to 37 CFR 1.129(a). Applicant's first submission after final filed on 11/13/2007 has been entered. Claims 1-18 are pending in the application and claims 19-35 are cancelled.

Election/Restrictions

3. Claim 1 is generic to the following disclosed patentably distinct species:

Species I illustrated by Fig. 2a;

Species II illustrated by Fig. 2b;

Species III illustrated by Fig. 2c; and

Species IV illustrated by Fig. 3.

The species are independent or distinct because the styluses of these species are structured differently so that these species include their own distinct features, e.g., Species I utilizes a distinct feature "a switch assembly (216-226)" coupled to a tip of the stylus for abruptly changing a property of a light beam emitted by a stylus (see Fig. 2a and the corresponding description, page 8, line 15 through page 9, line 6); Species II utilizes a moving assembly (234, 239) including an aperture 234, which moves in and out of the stylus, for

abruptly changing only a light beam spread (see Fig. 2b and the corresponding description, page 9, lines 7-18); Species III utilizes a moving assembly (246, a spring, and lens) including a lens 248, which moves in and out of the stylus, for abruptly changing a light beam between a spread light beam (B') and a focused, collimated light beam (B) (see Fig. 2c and the corresponding description, page 9, lines 19-28); and Species IV utilizes a distinct feature "a switch 320" for abruptly changing a property of a light beam emitted by a stylus regardless of whether a tip of the stylus contacts the input surface (see Fig. 3 and the corresponding description, page 10, lines 1-10). In other words, a stylus according to a species does not require distinct feature(s) of other species, for abruptly changing a property of a light beam emitted by a stylus.

Furthermore, this application contains claims directed to the above identified, patentably distinct species, e.g., at least claim 2 reciting "a switch", which is a distinct feature of Species I and is not required in other species, claims 11-18 reciting "an auxiliary switch", which is a distinct feature of Species IV and is not required in other species, and etc..

Applicant is further required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an

allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Notice to Applicants

4. Fig. 2c and the corresponding description, page 9, last 7 lines, contains a reference number "248" designated for two different elements, "lens" and "spring". Appropriate correction should be made in order to avoid the unnecessary objection to the drawing and/or specification.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy H. Nguyen whose telephone number is 571-272-7675. The examiner can normally be reached on Monday - Friday, 6:30 a.m. - 3:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached at 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHN
November 28, 2007



Jimmy H. Nguyen
Primary Examiner
Art Unit: 2629